

REMARKS

I. INTRODUCTION

In response to the Office Action dated October 15, 2008 and the Advisory Action of January 22, 2009, and in conjunction with the filing of a Request for Continued Examination, no claims have been amended. Claims 1-14 remain in the application. Entry of these amendments, and re-consideration of the application, as amended, are respectfully requested.

II. REAL PARTY IN INTEREST

The real party in interest is The DIRECTV Group, Inc., the assignee of the present application.

III. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the above-referenced patent application.

IV. STATUS OF CLAIMS

Claims 1-14 are pending in the application.

Claims 1, 2, 8, and 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over The NTN Network (NTN) in view of Junkin, U.S. Patent No. 6,193,610 (Junkin).

Claims 3 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over NTN in view of Junkin in further view of Allen, U.S. Publication No. 20020119824 (Allen), and further in view of Crockett et al., U.S. Publication No. 20040039631 (Crockett).

Claims 4-7 are rejected under 35 U.S.C. §103(a) as being unpatentable over NTN in view of Junkin in further view of Allen, and further in view of Walker, U.S. Patent 5,779,549 (Walker).

V. NON ART REJECTION

Claims 1 and 8 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Applicant respectfully traverses the rejections in light of the argument presented herein.

Paragraphs [0030] – [0032] of the specification as filed read as follows:

[0030] A data flow for a system according to the present invention is shown in Figure 1A. A gaming system 25 includes a question database 12 for use with a game application 14, such as an application for a trivia game. The gaming system 25 transmits data from the question database 12 and the trivia application 14 to a real-time update server 16. The update server 16 transmits data to an uplink server 18 that relays the data to a satellite 20. The satellite 20 then transmits the data from the question database 12 and/or game application 14 to a user's television STB 22. The questions and gaming application for playing the trivia game reside in the user's STB 22. The user may then interactively review the questions and provide answers via the STB 22. Questions are then asked and answers evaluated from the STB 22. A central broadcast center 10 includes, inter alia, the gaming system 25, the uplink server 18, the real time server 16 and transaction server 24.

[0031] In an exemplary embodiment, approximately 100 questions per level may be provided to a user periodically, i.e., hourly. The user, after playing the game may then submit their final score for a level or the entire game to a transaction server 24. The final scores are transmitted through a telephone from the STB 22 to the transaction server 24. However, other means for transmitting the final scores are conceivable, such as data including scores from several STBs 22 may be sent to the transaction server 24 for the game. As shown in Figure 1A, data from the STB 22 is transferred via a modem to a point of presence (POP) 23 and then transmitted over the internet 15 to the transaction server 24.

[0032] From the transaction server 24, the data sent by the STBs 22 is placed in a high score database 26. The high score database 26 stores the scores from several users for comparison and ranking purposes. A list of high scores and other related data can then be transmitted back via the uplink server 18 to the user so that the user may see the user's score as compared with the other competitors. Data transmission may be provided through a real time update server 16 to an uplink server 18 and uplink server 18 then transmits a question packet from the question database 12 and the game application 14 to the STB 22. Based upon the data stored in the high score database 26, a prize may be sent to the user with the high score for a particular period such as two weeks, one month or year. The present invention also facilitates the ability to provide questions on different types of knowledge for various gaming contests. (Emphasis added).

As stated in at least paragraphs [0030] – [0032] of the specification, the gaming application resides in the user's STB 22, and the questions are provided periodically. The user can play the game at any time. Thus, it is inherent and specifically described in the specification as filed that the user can initiate (play) a game from the gaming application at a time other than a time of transmission of the gaming application.

Response to the Advisory Action Discussion

The Advisory Action states that the claims rely on excerpts of the specification for support because the questions are sent periodically to the STB. Applicant traverses this characterization.

The Advisory Action admits, and paragraph [0030] specifically states, that “the questions and gaming application for playing the trivia game reside in the user's STB 22.” The apparent ambiguity noted in the Advisory Action is that the questions are provided on a periodic basis. However, the claims state that the gaming application is initiated (i.e., the game is played) at a time other than that of transmission of the gaming application, not at a time other than that of transmission of the questions. There are games that do not need questions in order to operate, and the gaming application is different than the questions or other data provided on a periodic basis.

Further, even if the questions are transmitted at the time that the user is playing, the questions are not being asked and answered in real-time; the questions are transmitted, and then stored in the STB 22, and then retrieved at a time later than the transmission. There is nothing contradictory about periodically sending additional questions, or replacement questions, and playing the game using those questions at the time of transmission of the questions, because the user is not answering those questions as they are transmitted. The questions reside in the STB 22, and are stored in the STB before they are viewed and answered by the user. This is clearly taught in paragraph [0030] of the specification as filed.

Such a scenario as claimed in the present invention is also different than the NTN and Allen references as discussed below.

As such, Applicants respectfully traverse the rejections and respectfully request that the rejections be withdrawn.

**VI. STATUS OF AMENDMENTS**

No amendments to the claims have been made subsequent to the final Office Action.

**VII. GROUNDS OF REJECTION TO BE REVIEWED**

Whether claims 1, 2, 8, and 12-13 are patentable under 35 U.S.C. § 103(a) over The NTN Network (hereinafter, the NTN reference) in view of U.S. Patent No. 6,193,610 issued to Junkin

(hereinafter, the Junkin reference).

Whether claims 3 and 14 are patentable under 35 U.S.C. § 103(a) over NTN in view of Junkin in further view of U.S. Publication No. 20020119824, to Allen (hereinafter, the Allen reference) in view of U.S. Publication No. 20040039631, to Crockett (hereinafter, the Crockett reference).

Whether claims 4-7 are patentable under 35 U.S.C. §103(a) over NTN in view of Junkin in further view of Allen, and further in view of U.S. Patent 5,779,549, issued to Walker (hereinafter, the Walker reference).

## VIII. ARGUMENT

### A. The References

#### The NTN Reference

The NTN reference describes a system that develops and produces original programming and distributes game programming. The NTN system can provide up to 16 live events for interactive play, allowing distribution of different programs to customers in different geographical locations. See Page 4, first full paragraph.

The NTN network broadcasts a variety of sports and interactive trivia games. The games are broadcast live, at specified times, and during live sporting contests when the NTN game corresponds to the live sporting contest. See Page 2, last full paragraph-page 3, second full paragraph.

The NTN network also broadcasts 30 minute general interest trivia games that start on the half-hour. Further, the NTN network allocates 14 minutes each hour for advertising spots. See Page 3, third and sixth paragraphs.

#### The Walker Reference

The ancillary Walker merely describes a method and a system for a distributed electronic tournament system in which many remotely located players participate in a tournament through input/output devices connected to a central controller which manages the tournament. The method includes the steps of (a) uniquely identifying a player communicating with the central controller via an associated input/output device; (b) responding to payment of an entry fee by the

player for allowing the player to participate in a tournament occurring within a fixed time window via an associated input/output device; (c) accessing a database to store in the database player information that is generated as the player participates in the tournament, such information being available for use in a subsequent tournament, which is administered by said controller and in which the player participates; and (d) awarding the player a prize for achieving a pre-established performance level in the tournament. In another preferred embodiment, the method further includes the steps of determining whether the player has been qualified to advance to a subsequent game session, in which at least one player is eliminated from the previous game session; and permitting each player qualified to a subsequent game session to participate in that game session. The system includes software and hardware to implement the method steps.

#### The Junkin Reference

Junkin merely describes an interactive apparatus and method that allows participants to compete in an interactive game, such as a contest or sporting event, occurring in real time or as a taped broadcast of a real time event. The event with which the participant may interact is broadcast live or previously taped but not aired. At home, participants can play along with the broadcast on a real time basis as a previously taped segment of the television show is aired. Interactive play may be accomplished by access to an on-line version of the game while the corresponding game show airs live or is rebroadcast to the participant for the first time on television.

#### The Crockett Reference

Crockett merely describes a software based tool that provides an assessment of an organization's customer relationship management capabilities. The tool can, in some cases, assign scores to customer relationship management capabilities in response to receipt of input from a user. An assessment is provided of the customer relationship management capabilities based on the scores assigned to the customer relationship management capabilities.

The Allen Reference

The ancillary Allen reference is cited as disclosing updates of answers in real-time and competitions between players on the same game at the same time or between players on the same game at different times.

B. The Claims are Patentable Over the Cited References

Discussion of Independent Claims

Independent claims 1 and 8 are generally directed to methods and systems for interactive gaming on a television. A method in accordance with the present invention comprises transmitting a gaming application from a gaming system to a plurality of receivers via a first communications network, and storing the gaming application at the receiver, initiating a game from the gaming application at a time other than a time of transmission of the gaming application, submitting a user identification, generating a plurality of questions for a skill level, initiating a question answer sequence, incrementing through the plurality of questions while progressing through the question answer sequence, incrementing the skill level upon completion of the question answer sequence for the plurality of questions, iteratively repeating steps until at least one of a user exits the game and each skill level is complete, calculating a time based score component for each skill level, calculating a bonus score component for each skill level, summing the time based score component and the bonus score component in order to determine a total level score for each skill level, calculating a real time total user score associated with the results of the question answer sequence by summing the total level score for each skill level completed by the user, transmitting the real time total user score to the gaming system via a second communications network, and transmitting a ranking of the real time total user scores for each user via the first communications network.

The cited references do not teach nor suggest the limitations of the present invention. Specifically, the cited references do not teach nor suggest at least the limitation of initiating a game from the gaming application at a time other than a time of transmission of the gaming application as recited in the claims of the present invention.

Discussion of Claimed Differences Between the Cited References and the Claims

Discussion of the NTN Reference

The Office Action admits that NTN and Junkin disclose real-time tournaments and do not disclose the limitation of initiating a game from the gaming application at a time other than a time of transmission of the gaming application as recited in the claims of the present invention (see Office Action, page 6, lines 10-14). The Office Action then relies on Allen to teach competitions between players on the same game at the same time or between players on the same game at different times (see Office Action, page 6, lines 14-19, and Allen, Abstract paragraph 2). None of the other references are cited as teaching this limitation.

Applicants agree that none of the other references teach the limitation, and that the NTN reference discloses real-time tournaments. Applicants note that not only is the tournament in NTN being held in real-time, but that the game (i.e., the gaming application) being played in such a tournament is being transmitted to various sites at the same time as the game is played (i.e., initiated).

As an example, the NTN reference would teach, for example, a broadcast of a game (or any closed-circuit television program) to a variety of locations at a given time. Whether a specific location, e.g., restaurant, bar, or person's home turns on their receiver, receives the game, and plays the game that is being broadcast at that time, or some other time during that broadcast, is not the issue being discussed or claimed. If a user does not turn on their monitor at, say, 8 pm when the game or broadcast starts, they are still able to see the program from whenever they do turn on their monitor, say at 8:10 pm, and play the game from that time forward. The ability of viewing the game at a time after the transmission of the game is different than being able to participate in the game from the beginning (i.e., initiating the game).

Response to the Advisory Action Discussion

The Advisory Action states that NTN could hold a tournament over an extended period of time, e.g., a week, and concludes that "real time" is not limited to "instantly."

Applicant agrees with the characterization, but traverses the conclusion made by the Advisory Action. It is possible for NTN to hold a tournament for an extended period of time. Even if that period of time is an hour, such a time period is "extended" as defined in the

Advisory Action. As an example, if an NTN tournament comprised a one-hour game, with trivia questions every three minutes, there would be twenty questions in such a contest.

The NTN reference would transmit the gaming application and the first question during the first three minutes of such an extended time period. Those receivers that are tuned in to the NTN broadcast channel would have the opportunity to receive the gaming application and the first question, and then have the remainder of the three minute time period to respond to the first question.

After the first three minutes, the gaming application would continue to be broadcast, and a second question along with the gaming application would be transmitted. Any receivers that initially tune into the NTN broadcast during the second three minutes of the NTN broadcast would never have the opportunity to answer the first question, because the NTN broadcast is “real-time” or “live” in the sense that the time of display of the gaming application is controlled completely by the transmission station. The users in the NTN system have no control over when the display of the gaming application occurs or when they get a chance to answer a given question. This is true whether the NTN contest takes one hour or one week; those that first tune in on Tuesday do not get to answer Monday’s questions. Such a “real-time” and instantaneous system is required in NTN because NTN does not store the gaming application or the questions at the user facility. If NTN does not continuously broadcast the gaming application, those that tune in late will not be able to join in the contest, because they will have missed the transmission of the gaming application itself. The question data for the latecomers will be irrelevant and out of context without the underlying gaming application to interpret the data.

The present invention, however, broadcasts the gaming application and the questions and stores the application and questions in the STB. When the first user turns on their STB, and opens the gaming application at a first time (e.g., 8:00 pm), they retrieve the stored gaming application and the stored first question, and answer the question. Three minutes later, or alternatively, as soon as the first user sends in their answer to the first question, the second question is retrieved from memory in the STB and the question is answered, etc. A second user can turn on their STB at any time, either before or after the first user’s retrieval of the gaming application, retrieve the gaming application and first question from their own STB, and answer the same first question that the first user did. Such a delayed start of the gaming application is not possible within the NTN system.

Discussion of the Allen Reference

Allen does not remedy this situation. Applicant agrees that Allen teaches that several different games may be played at the same time. However, Applicants traverse the characterization of Allen, in that Applicants believe that Allen does not teach initiating a game from the gaming application at a time other than a time of transmission of the gaming application.

Allen teaches, for example, that the gaming devices may be arcade games (see, e.g., Allen FIG. 5). There is no broadcast of the gaming application at all in such devices. The arcade games are networked together such that the scores that are recorded on any given gaming device are reported on other networked arcade games. The only broadcast in such devices is the broadcast of score updates. The gaming application is never broadcast in such an embodiment.

Allen also teaches that the gaming devices may be computers or cellular phones (see, e.g., Allen, FIG. 1). The game in such situations must be broadcast when the user requests entrance into the tournament (i.e., when the game is initiated), not at some time before or after such initiation, because the server computers in Allen (or any such network) would not know which computers or cellular telephones to broadcast to prior to any given cellular phone or computer requesting access to the tournament.

Allen essentially teaches that various users can play a given game at various locations at different times and compare their various scores, which were obtained at different times and possibly on different games, against each other. The ability to play a given game at the time of a particular user's choosing, and compare their score against other players that have played that game or other games at other times, is not the meaning, focus, or intent of the limitation recited in the claims; the ability of a player to initiate a game from the gaming application at a time other than a time of transmission of the gaming application is what is claimed and discussed herein.

Applicants submit that Allen teaches no broadcasting of gaming applications at all in the embodiment of the arcade game context, and further teaches that the gaming application is broadcast at the time of initiation in the context of cellular telephone and computer gaming devices. There is no teaching in Allen to describe, either inherently or directly, an initiation of a game from the gaming application at a time other than a time of transmission of the gaming application as recited in the claims of the present invention.

Response to the Advisory Action Discussion

The Advisory Action states that Allen teaches updating the games and that customized games can be provided for tournaments. Applicant traverses this characterization, and also traverses that Allen teaches or suggests the claims of the present invention.

Applicant respectfully submits that the updates to the games are, essentially, updates to the questions as discussed above with respect to NTN. The underlying gaming application, e.g., the race car, the golfer avatar, or the underlying trivia backdrop, do not change. With the Allen updates, the new track or question makes a specific user input right or wrong, but the gaming application is not altered. The gaming application is not updated; instead, the answers or inputs the user gives are re-evaluated based on the new questions or golf courses or race tracks that are periodically or otherwise sent to the gaming device.

Nowhere does Allen state that the gaming application itself is transmitted at a time other than playing the game. If this were the correct characterization of Allen, the entire software package on an arcade game, or the underlying operating system on a cellular telephone or PDA, would be sent via the internet or in the updates described in the Advisory Action. Such teachings are not present in Allen, nor are they expected in such systems. The basic gaming application remains as installed at the factory, and is never broadcast via the internet. Only the question data or track data is updated.

Further, Allen uses a single communications network to transmit the question updates and the scores obtained by each user. The claims clearly recite two separate communications networks, one for the transmission of the gaming application/updates and the other for score reporting.

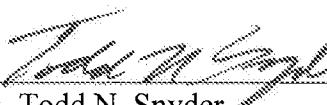
None of the other cited references are cited for, nor provide a remedy to this deficiency in the Allen and NTN references. As such, claims 1 and 8 are patentable over all of the cited references. Further, dependent claims 2-7 and 9-14 are submitted to be allowable over the cited references in the same manner, because they are dependent on independent claims 1 and 8, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 2-7 and 9-14, recite additional novel elements not shown by the cited references.

## IX. CONCLUSION

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Should any fees be associated with this submission, please charge Deposit Account 50-0383.

Respectfully submitted,

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